

Message Text

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ACTION EA-12

INFO OCT-01 ISO-00 LOC-01 COME-00 CIAE-00 DODE-00
INR-10 NSAE-00 PA-01 ICA-11 SP-02 L-03 /041 W
-----042697 080659Z /10
R 070905Z JUL 78
FM AMEMBASSY MANILA
TO SECSTATE WASHDC 8128

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E.O. 11652: N/A
TAGS: EINV, RP
SUBJECT: MODIFICATION OF PD 1263: REVISED PHILIPPINE
PATENT LAW

REF: MANILA 6596

1. SUMMARY. PD 1263 AMENDING PHILIPPINE PATENT LAW HAS BEEN MODIFIED IN RECENT MONTHS BY PRESIDENTIAL LETTER OF INSTRUCTION (LOI) 678, SIGNED MARCH 8, 1978, AND ISSUED IN MID-APRIL, AND A MEMORANDUM OF AGREEMENT SIGNED BETWEEN THE CENTRAL BANK, TECHNOLOGY RESOURCE CENTER, AND BOARD OF INVESTMENTS, REPORTEDLY SIGNED MID-JUNE AND NOT YET RELEASED TO PUBLIC. END SUMMARY.

2. LOI 678 LIMITS THE AUTHORITY GIVEN THE TECHNOLOGY RESOURCE CENTER (TRC) IN PD 1263 TO APPROVE ALL VOLUNTARY LICENSING AGREEMENTS TO ONLY THOSE CONTRACTS PERTAINING TO PROCESSES PATENTED IN THE PHILIPPINES. VOLUNTARY LICENSE CONTRACTS DEALING WITH TECHNOLOGY NOT PATENTED IN PHILIPPINES WILL BE REVIEWED UNDER CENTRAL BANK CIRCULAR 393, WHICH IN THE PAST HAS MEANT BOARD OF INVESTMENT (BOI) APPROVAL.

3. JUNE 22 MEMBERS OF DRUG ASSOCIATION OF PHILIPPINES
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(DAP) WERE GIVEN ADVANCE COPIES OF A MEMORANDUM OF AGREEMENT WHICH, ACCORDING TO DAP PRESIDENT J.C. CARDENAS, WAS SIGNED THE WEEK BEFORE (COPIES HAD NO REPEAT NO SIGNATURE). THE MEMORANDUM OF AGREEMENT HAS FURTHER MODIFIED REVIEW PROCESS FOR LICENSE CONTRACTS BY GIVING BOTH THE BOI AND TRC A ROLE. ACCORDING TO DRUG INDUSTRY SOURCES WHAT WILL BE SET UP IS A THREE-MEMBER, INTER-AGENCY COMMITTEE, MADE

UP OF REPRESENTATIVES FROM THE CENTRAL BANK, BOI, AND TRC, WHICH WOULD HAVE AUTHORITY TO REVIEW ALL LICENSE CONTRACTS INVOLVING PAYMENT OF ROYALTY IN FOREIGN EXCHANGE.

4. DESPITE A RECENT PRESS ACCOUNT THAT REPORTED "TREMENDOUS PRESSURE ON THE GOVERNMENT BY MULTINATIONALS" AS THE REASON FOR LOI 678, SOURCES CITE INSTEAD BUREAUCRATIC INFIGHTING BETWEEN THE BOI AND TRC AS THE REAL REASON FOR THE CHANGES. THE TRC, A FLEDGLING, BUT POWERFULLY-BACKED ENTITY, FOUNDED AT THE INSTIGATION OF MRS. MARCOS, IS RESPONSIBLE FOR ENCOURAGING INDIGINOUS DEVELOPMENT OF TECHNOLOGY AND PROMOTING THE TRANSFER OF TECHNOLOGY TO PHILIPPINES AT LOWEST COST. ITS OFFICERS TEND TO BE MORE NATIONALISTIC AND LESS CONCERNED WITH THE INVESTMENT CLIMATE THAN ARE THOSE AT THE BOI.

5. LOI 678 AND MEMORANDUM OF AGREEMENT HAVE BEEN GENERALLY WELCOMED BY AMERICAN BUSINESS HERE, ESPECIALLY THE DRUG COMPANIES WHO ARE MORE SERIOUSLY AFFECTED BY PD 1263. ONE AMERICAN DRUG COMPANY PRESIDENT CHARACTERIZES THE CHANGES AS A "FAVORABLE RETRENCHMENT" FROM THE HARD-HITTING POSTURE TAKEN IN PD 1263. THE MAIN CONCERN OF THE AMERICAN COMPANIES STEMS FROM THEIR PERCEPTION OF THE TRC AS "LEFTIST", INCOMPETENT AND HOSTILE. THEY SEEM NOW TO BE SATISFIED THAT THE TRC WILL NOT BE ABLE TO "RAILROAD" THROUGH ANY PROVISIONS IN LICENSE CONTRACTS INIMICAL TO LIMITED OFFICIAL USE

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THEIR INTERESTS.

6. COPIES OF LOI 678 AND MEMORANDUM OF AGREEMENT ARE BEING POUCHED TO THE DEPARTMENT. MURPHY

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PATENT LAW
Control Number: n/a
Copy: SINGLE
Draft Date: 07 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978MANILA11416
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780280-0522
Format: TEL
From: MANILA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780786/aaaacupa.tel
Line Count: 98
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 7e616479-c288-dd11-92da-001cc4696bcc
Office: ACTION EA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 MANILA 6596
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 04 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2088841
Secure: OPEN
Status: NATIVE
Subject: MODIFICATION OF PD 1263: REVISED PHILIPPINE PATENT LAW
TAGS: EINV, RP
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/7e616479-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014